



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNDC

Introduction

The applicant failed to attend the hearing at the scheduled start time. The respondent was present and ready to proceed. The telephone line conference line remained open and the phone system was monitored for ten minutes. The applicant failed to appear. I then proceeded with the hearing in the absence of the applicant. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered. .

The respondent testified the tenant served him with the hearing letter only (sets out the date, time and codes to participate in the conference call hearing) and failed to serve him with a copy of the Application for Dispute Resolution.

Issue(s) to be Decided:

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the 10 day Notice to End Tenancy dated June 25, 2015?
- b. Whether the tenant is entitled to a monetary order and if so how much?

Background and Evidence

The tenancy began approximately 18 months ago. The present rent is \$1100 per month payable in advance. There is no evidence that the tenant paid a security deposit.

The landlord testified the tenant has sublet the rental unit. The landlord obtained an Order for Possession from the Residential Tenancy Branch a couple of months ago. The tenant applied to the Supreme Court of British Columbia for an order to set aside

the Order for Possession.. The landlord testified the Supreme Court justice acted as a mediator and the parties agreed the tenant and her subtenants would vacate the rental unit by the end of October.

Analysis

The tenant failed to attend the hearing and failed to present evidence. In the absence of any evidence or submissions from the tenant I order the application to cancel the 10 day Notice to End Tenancy and the application for a monetary order in the sum of \$5000 be dismissed **without** liberty to re-apply.

Order for Possession:

The Residential Tenancy Act provides that where a landlord has made an oral request for an Order for Possession at a hearing where an arbitrator has dismissed a tenant's application to set aside a Notice to End Tenancy, the arbitrator must grant an Order for Possession. I declined to make such an order in this case as the parties reached a settlement in the Supreme Court of British Columbia which provided the tenant would vacate at the end of October.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Residential Tenancy Act.

Dated: September 11, 2015

Residential Tenancy Branch

